

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

UNITED STATES OF AMERICA)	
)	
v.)	CASE NO: 2:07-cr-160-CSC
)	
SHILUNDA F. HENDERSON)	

UNOPPOSED MOTION TO CONTINUE TRIAL

NOW COMES the Defendant, Shilunda F. Henderson, by and through the undersigned counsel, Michael J. Petersen, and respectfully moves this Court to reset the above-referenced matter now scheduled for trial on the January 14, 2008 misdemeanor trial docket to allow for the consideration of pretrial diversion in this matter. In support of this Motion, defendant would show:

1. On October 16, 2007, Ms. Henderson was arraigned on an Information charging offenses involving theft of government property.
2. Pursuant to recent plea negotiations, both parties agree that a resolution of this matter should be reached. Central to a potential resolution of this matter is the possibility of Ms. Henderson's acceptance into the pre-trial diversion program.
3. Undersigned counsel has prepared a Pretrial Diversion Request for the Defendant and has forwarded the same to Special United States Attorney Reese Hays. If the Government agrees that diversion is the appropriate disposition of the case, the case will then be presented to the United States Probation Office for its determination of whether or not to accept Ms. Henderson into the program.
4. Ms. Henderson respectfully requests a continuance from the current misdemeanor trial setting on January 14, 2008, in order to finalize plea negotiations and to investigate and consider

her qualifications and application for pre-trial diversion.

5. The Government, through Special United States Attorney Reese Hays, has no opposition to the granting of this Motion.

6. While requests for a continuance are addressed to the sound discretion of the trial court, *United States v. Darby*, 744 F.2d 1508, 1521(11th Cir. 1984), *reh'g denied* 749 F.2d 733, *cert. denied*, 471 U.S. 1100 (1985), undersigned counsel feels that, in this case, because prosecution may be deferred/diverted if pretrial diversion is granted, it is in the interest of justice to continue the trial in this matter so as to allow Ms. Henderson the opportunity to pursue diversion. 18 U.S.C. §§ 3161(h)(2) and 3161(h)(8)(B)(I).

WHEREFORE, defendant respectfully requests that this Motion be granted and the trial now set on the January 14, 2008, misdemeanor trial docket be continued.

Dated this 17th day of December 2007.

Respectfully submitted,

s/ Michael J. Petersen

MICHAEL J. PETERSEN

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CERTIFICATE OF SERVICE

I hereby certify that on December 17, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

Kent Brunson, Esq., Assistant U.S. Attorney and Reese Hays, III, Capt., USAF, Special Assistant U.S. Attorney.

Respectfully submitted,

s/ Michael J. Petersen
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